

## Residential Tenancies Tribunal

Decision 21-0022-05

John R. Cook  
Adjudicator

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### Introduction

1. The hearing was called at 1:17 pm on 25 March 2021 via teleconference.
2. The applicant, Newfoundland Labrador Housing, was represented at the hearing by [REDACTED], hereinafter referred to as “the landlord”. The respondent, [REDACTED], hereinafter referred to as “the tenant”, did not participate.

### Issues before the Tribunal

3. The landlord is seeking an order for vacant possession of the rented premises.

### Legislation and Policy

4. The jurisdiction of the Director of Residential Tenancies is outlined in sections 46 and 47 of the *Residential Tenancies Act, 2018*.
5. Also relevant and considered in this case is section 20 of the *Residential Tenancies Act* and rule 29 of the Rules of the Supreme Court, 1986.

### Preliminary Matters

6. The tenant was not present or represented at the hearing and I was unable to reach her by telephone from the hearing room. This Tribunal’s policies concerning notice requirements and hearing attendance have been adopted from the *Rules of the Supreme Court, 1986*. According to Rule 29.05(2)(a) respondents to an application must be served with claim and notice of the hearing 10 clear days prior to the hearing date and, where the respondent fails to attend the hearing, Rule 29.11(1) states that the hearing may proceed in the respondent’s absence so long as she has been properly served. The landlord submitted an affidavit with her application stating that the tenant was served with

notice of the hearing by registered mail and the associated tracking history shows that that letter was delivered on 03 February 2021. The tenant has had 49 days to provide a response. As the tenant was properly served, and as any further delay in these proceedings would unfairly disadvantage the landlord, I proceeded with the hearing in her absence.

## **Issue 1: Vacant Possession of Rented Premises**

### **Relevant Submissions**

7. The landlord stated that she had entered into a monthly rental agreement with the tenant on 21 October 2009 and a copy of the executed lease was submitted with her application. The current rent is set at \$263.00 per month.
8. The landlord testified that as a condition for the renewal of her lease, the tenant was to provide to the landlord information about the total household income and information about the number of occupants staying at the property. She stated that that information had been outstanding since 2016 and she had recently learned that the tenant had asked to add ■ to her lease. ■ is the tenant's common-law partner and the landlord testified that he was currently residing at the property.
9. As her lease was outstanding, and as ■ had now moved into the property, the landlord sent a notice to the tenant, on 12 August 2020, and the relevant sections read as follows:

*Dear ■:*

*As you are aware your lease has been outstanding since July 31, 2016. Also since that time you have requested to add ■ to your lease.*

*In order to consider adding a person to your lease proper documentation has to be provided. Please provide the following:*

- *2018 and 2019 Tax returns for yourself and ■*
- *Provide current income – such as pay stubs, cheque stub from Income Support, etc.*

*In order to remain a tenant with ■ your lease has to be current at all times. Should we not receive the above information by August 31, 2020, further action will be taken.*

10. The landlord stated that the tenant did not comply with this notice and she did not furnish the landlord with the required documentation by 31 August 2020. The landlord stated that the tenant's failure to provide her with that required documentation was a breach of section 15 of their rental agreement. That section of their agreement reads:

## **15. Renewal**

*(a) If the Tenant desires to renew this Lease, in order to determine continued eligibility, the Tenant must furnish the Landlord with a statement together with supporting materials as the Landlord may require, showing details of total household income from all sources, for all household members residing in the Leased Premises, and also showing household composition, annually, not later than 120 days prior to the expiration of the period established in Clause 3(b).*

*(b) The Tenant agrees that in support of the statement referred to in Clause 15(a), above, the Tenant shall furnish to the Landlord upon request the following Proof of Income for themselves and all other occupants having income; an authenticated copy of the most recent Income Tax Return as submitted to Revenue Canada, T-4 slips, pay cheque stubs and any other similar evidence of income, and shall authorize the Landlord to verify income by contacting employers and other payers/issuers, and/or Revenue Canada (Taxation);*

*(c) The Tenant agrees that if there is an adjustment to the monthly rent as a result of the information provided in the above referred to subsection, notice of such adjustments shall be communicated by letter and the Tenant acknowledges that all other terms of the Lease will remain in full force and effect.*

11. As the tenant had breached their agreement, on 21 September 2020 the landlord sent the tenant a termination notice and a copy of that notice was submitted with her application. That notice was issued under section 20 of the *Residential Tenancies Act, 2018* (notice where material term of agreement contravened) and it had an effective termination date of 31 October 2020.
12. The tenant has not moved out, as required by that notice, and the landlord is seeking an order for vacant possession of the rented premises.

## **Analysis**

13. The relevant subsections of section 20 of the *Residential Tenancies Act, 2018* states:

### ***Notice where material term of agreement contravened***

*20. (2) Notwithstanding subsection 18(2) and paragraph 18(3)(b), where a tenant contravenes a material term of a rental agreement, the landlord may give the tenant written notice of the contravention, and if the tenant fails to remedy the contravention within a reasonable time after the notice has been served, the landlord may give the tenant notice that the*

*rental agreement is terminated and the tenant is required to vacate the residential premises.*

*(3) Where the tenant gives a landlord notice under subsection (1) or the landlord gives a tenant notice under subsection (2) that a rental agreement is terminated, the notice shall be given*

...

*(b) not less than one month before the end of a rental period where the residential premises is*

*(i) rented from month to month,*

*(ii) rented for a fixed term, or*

*(iii) a site for a mobile home.*

14. I accept the landlord's claim that the tenant's lease had not been renewed since 2016 and that no documentation concerning her income, or ■■■'s income, had been supplied to the landlord since that time. That constitutes a breach of the tenant's rental agreement.
15. As the tenant was in breach of her agreement, and as she did not comply with the landlord's request to remedy that breach by 31 August 2020, I find that the landlord was in a position, in September 2020, to terminate this tenancy under section 20 of the *Residential Tenancies Act, 2018*.
16. As the termination notice issued to the tenant on 21 September 2020 meets all the requirements set out in this section of the *Act*, it is a valid notice.

## **Decision**

17. The landlord's claim for an order for vacant possession of the rented premises succeeds.
18. The tenant shall pay to the landlord any costs charged to the landlord by the Office of the High Sheriff should the landlord be required to have the Sheriff enforce the attached Order of Possession.

## **Issue 2: Hearing Expenses**

19. The landlord submitted a receipt showing that she had paid \$20.00 to file this application. As the landlord's claim has been successful, the tenant shall pay this hearing expense.

## Summary of Decision


20. The landlord is entitled to the following:

- An order for vacant possession of the rented premises,
- The tenants shall pay to the landlord any costs charged to the landlords by the Office of the High Sheriff should the landlord be required to have the Sheriff enforce the attached Order of Possession.
- A payment of \$20.00.

14 April 2021

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Date



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John R. Cook  
Residential Tenancies Tribunal